

AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON TUESDAY, JUNE 5, 2007.

Board Members Present: *John F. Coates, Chairman*
Steven E. Nixon, Vice-Chairman
Larry W. Aylor
William C. Chase, Jr.
Sue D. Hansohn
Brad C. Rosenberger
Steven L. Walker

Staff Present: Frank T. Bossio, County Administrator
J. David Maddox, County Attorney
John C. Egertson, Planning Director
Sam McLearen, Zoning Administrator
Peggy S. Crane, Deputy Clerk

CALL TO ORDER

Mr. Coates, Chairman, called the meeting to order at 7:00 pm.

CITIZEN FORUM

Mr. Coates opened the Citizen Forum and called for comments on any item that was not on the agenda.

Ms. Midge Harmon, Stevensburg District, stated that she and her family owned Harmon Hay Rides and Carriages at Brandy Station and served the D.C. area, Maryland and most of Virginia. She pointed out that horses were the seventh largest agricultural commodity in Virginia, and their support systems provided \$5 billion to Virginia's economy annually, and approximately \$20 million to Culpeper's economy each year. She noted that the predominate equine activity in the Commonwealth of Virginia was trail riding, and she recommended that the Culpeper Heritage Horse Trail be incorporated into the Comprehensive Plan.

Ms. Linda Thompson, a Mr. Smith, and Mr. James Johnson requested that their respective three minutes be given to Col. Mike Whetston.

Colonel Whetston stated as an Army veteran, he was honored to speak on behalf of Compassion House and the Deane Outreach Ministry. He said that Compassion House was not a homeless shelter or halfway house, but a veterans' transition facility. He described the house as a warm and inviting home for veterans who had undergone criminal background checks, been checked against the Virginia Registry of Sex Offenders, and

undergone random drug testing. He said these measures were taken not only to protect the community, but also to protect the residents of Compassion House. He stated that the neighbors had expressed valid concerns, but they were not valid complaints and no laws had been broken. He said the defamatory claims by neighbors that the residents had psychiatric problems and chemical dependencies were without merit and bordered on slander, and he cautioned those with concerns to be very careful in making public remarks. He noted that neighbors and community residents had questioned the Deanes' qualifications to create and manage Compassion House, but the only qualification that was required was compassion. He said that the Department of Veterans Affairs had acknowledged that they could not help everyone who qualified and needed assistance, and the Deans were helping five veterans at a time in order to stay within the County's Zoning Ordinance. He said the veterans were seeking no handouts, but a second chance to better themselves and their families. He reiterated that no laws had been broken by the Dean Outreach Ministry or Compassion House residents, and any claims that the residents had chemical dependencies were without merit. He stressed that safety, security, and public order were not at issue, and neither the Zoning Administrator's decision or the Zoning Ordinance should be changed. He thanked everyone and every organization that had supported Compassion House since its inception. He reported that 160 signatures had been collected on a petition designed to encourage people with concerns about Compassion House to get to know the residents.

Mr. George Bryson, Jefferson District, informed the Board that he sent the County Attorney an e-mail on January 21, 2007, and he was issuing an oral Freedom of Information request since he had not received a reply. He also informed the Board that the General Assembly had passed a law permitting localities to levy impact fees on developers, and he urged the Board to utilize that mechanism to ease the burden on taxpayers.

Mrs. Yolonda Deane, founder and Vice President of Compassion Home, distributed photographs of Compassion House showing how well it was maintained by its residents. She asked the five veterans who were living in Compassion House to stand. She said the veterans had served their country and were not addicted to chemicals, but were men who were disabled and collecting pensions or disability checks. She said she hoped that Compassion House would be a beginning in an effort to provide affordable housing for veterans, but it would need the support of the community. She stated that citizens had

been trespassing on their property, taking pictures, and trying to see what the veterans were doing. She said the police told her they could not do anything because no signs had been posted. She said they did not want to erect “no trespassing” signs because they wanted to welcome the community. She also showed pictures of the surrounding property indicating five-foot high woodpiles and other eyesores in the neighborhood while neighbors were complaining about Compassion House. She urged the Board to uphold the laws, keep the current ordinances in place, and help alleviate homelessness in the community.

Mr. Cliff Lewin expressed his concern for his fellow veterans. He explained that he had distributed POW/MIA flags in the schools in an endeavor to educate the youth regarding veterans who had made sacrifices and given their lives for their country. He said it was now time for the community to support the veterans who returned and were in need of assistance by supporting Compassion House.

Ms. Cindy Kokernak, member of the American Legion Auxiliary, stated she had traveled to Culpeper numerous times in support of Compassion House. She said that Compassion House was a clean, wonderful environment for veterans needing temporary assistance and a place where they could be treated with respect.

Mr. Coates announced that 30 minutes had been allotted for the Citizen Forum, and there was time for one more speaker. He asked the people in the audience who were present to support Compassion House to stand.

Mr. D. R. Griffith, Stevensburg District, addressed his concerns regarding the Bowen tract, i.e., that VDOT approvals did not meet the minimum standards and the Health Department had not provided proper soil reports.

Mr. Coates closed the citizen forum at 7:32 p.m., and recessed the meeting to allow citizens in the audience to leave if they wished to do so.

Mr. Coates called the meeting back to order at 7:35 p.m.

AGENDA ADDITIONS AND/OR DELETIONS

Mr. Nixon moved, seconded by Mr. Walker, to amend the agenda to add:
CONSIDERATION OF WATER AND SEWER AGREEMENT BETWEEN THE BOARD OF SUPERVISORS, BOSTON WATER AND SEWER COMPANY, AND WYOMING HOUSE, INC.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

Mr. Nixon moved, seconded by Mrs. Hansohn, to approve the agenda as amended.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

CONSIDERATION OF WATER AND SEWER AGREEMENT BETWEEN THE BOARD OF SUPERVISORS, BOSTON WATER AND SEWER COMPANY, AND WYOMING HOUSE, INC.

Mr. Nixon moved, seconded by Mr. Aylor, to authorize and direct the Board Chairman to execute on behalf of the Board of Supervisors, an agreement between the Board of Supervisors, Boston Water and Sewer Company, and Wyoming House, Inc., on the terms discussed by the Board today in Closed Session.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

PUBLIC HEARINGS

THE BOARD OF SUPERVISORS WILL RECEIVE PUBLIC COMMENTS AND CONSIDER AMENDMENTS TO ARTICLE V. PARKING SPACES RESERVED FOR DISABLED PERSONS OF THE COUNTY CODE

Mr. David Maddox, County Attorney, informed the Board that the proposed amendments had been recommended by the Rules Committee. He stated that both the Sheriff's Department and the School System had called attention to the abuse by the general public of designated parking spaces for the disabled. He pointed out there was no process under the existing ordinance to cite individuals who were not disabled and parked in spaces designated for the disabled. The revised ordinance allows for a ticketing procedure by the Sheriff's Department for violations and fines of \$100 for a first offense, \$150 for a second offense, and \$250 for a third or higher offense. He noted that the State statute allowed fines up to \$500, but the Rules Committee had recommended a limit of \$250. He displayed a sample of the reserved parking sign, with the penalty noted, that would become a part of the ordinance.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Walker, to approve the amendments to Article V. of the County Code.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

THE BOARD OF SUPERVISORS WILL RECEIVE PUBLIC COMMENTS AND CONSIDER AN AMENDMENT TO CHAPTER 12 – ARTICLE XV. TECHNOLOGY ZONES TO CREATE A FIFTH TECHNOLOGY ZONE TO BE KNOWN AS BRAGGS CORNER TECHNOLOGY ZONE OF THE COUNTY CODE

Mr. Carl Sachs, Economic Development Director, informed the Board that the proposed amendment to the County Code would add a fifth Technology Zone to be known as the Braggs Corner Technology Zone. He said the new zone contained 23 parcels and totaled 286 acres, the majority of which was zoned industrial or commercial.

Mr. Nixon asked Mr. Sachs to explain the benefits of a Technology Zone for the benefit of those in the audience or watching on television.

Mr. Sachs explained that the Technology Zone Ordinance, created by State law, allowed governmental units to provide business incentives through tax rebates or reimbursement of fees. He stated that Culpeper's Technology Zone incentives were based on a performance matrix with four variables: The number of jobs created by a business, the median salary of the jobs created, the size of the building that was constructed, and the cost of the private investment. He added that points were awarded for the four variables, and a business could receive a return of up to 80 percent of its taxes for a period of three years based on points. He said that the County had a statutory limit of \$1 million per business.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Walker, to approve the amendment to Chapter 12, Article XV. Technology Zones, to create a fifth technology zone.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

UNFINISHED PLANNING COMMISSION BUSINESS
ADDITION TO THE RILLHURST FARMS AGRICULTURAL AND FORESTAL DISTRICT.

Request by William Westlake to add 16.62 acres to the Rillhurst Farms Agricultural & Forestal District. The property is located on Route 633 in the Salem Magisterial District. Tax Map/Parcel Nos. 39/3, 3B.

Mr. Egertson displayed a copy of the tax map that highlighted the location of the Westlake property and indicated the existing Rillhurst Farms Agricultural and Forestal District. He said that Mr. Westlake had requested to add two parcels containing approximately 17 acres to the Rillhurst Farms District, and the request was postponed last month at the request of Mr. Westlake. He noted that although the Agricultural and Forestal Districts Advisory Committee recommended approval of the addition, the Planning Commission recommended denial because of concerns regarding the small size of the two parcels, the distance from the District core, and the limited agricultural use on the property. He stated that in addition to the Planning Commission's recommendation, there were some written and public testimony in opposition from several neighboring properties regarding the potential buffering requirements for an Agricultural and Forestal District.

Mr. Egertson explained that the addition of a property to an Agricultural and Forestal District did not automatically result in the imposition of buffers on adjacent properties. He stated that only unless an adjoining owner filed an application for a subdivision, use permit or rezoning would buffers be considered and set at that time. He said the request was ready for the Board's consideration.

Mr. Chase asked whether the request met all of the requirements. Mr. Egertson assured him that the proposed property was within the limited distance of the core of the District and would qualify for addition to the District.

Mr. Coates inquired whether there was a minimum lot size for inclusion in an Agricultural and Forestal District. Mr. Egertson replied that there was no minimum lot size, and normally property as small as five acres could be included, but most properties were in the 10- to 20-acre range. He added that the two separate parcels being proposed when combined added up to approximately 16.5 acres, partially wooded with an area used for making hay.

In reply to several questions asked by Mr. Coates, Mr. Egertson replied that no buffer would be imposed as a result of the property being included in an Agricultural and Forestal District, and only if an adjoining owner wished to subdivide, rezone, or add a more intense use on his/her property, would a possible buffer be imposed on any new uses. He

said the current zoning of the properties was RA (Rural Area) and if an adjoining parcel to the property qualified for a tenant house, there would be no buffer concern because no use permit, subdivision, or rezoning would be required.

Mr. William Westlake, applicant, reviewed reasons why he would like to be included in the Rillhurst Agricultural and Forestal District. He felt his 17 acres would complement the District, and he planned to farm the land and restore its historical integrity. He said his pastures were now yielding good fescue and rye and would be used for a good quality grass feed, and he did not plan to develop his land. He explained that he had reviewed the request with the Planning Director and the concerns expressed by his neighbors regarding the perceived negative impact of any setbacks. He stated he did not plan to do anything different on his property and would continue to farm, seed and mow the land, with no impact whatsoever on his neighbors. He felt that being in an Agricultural and Forestal District would provide him with protection in the future should he need protecting and provide some value to him and the County by adding farm land to the District.

Mr. Coates opened the public hearing and called for public comments.

Mr. Powell O'Bannon stated he was representing Jefferson Homebuilders, who owned a 10-acre lot that bordered the Westlake property to the west. He said his major concern was that the proposed addition was not adjacent to an Agricultural and Forestal District. He questioned the definition of "core" and whether the Westlake property was within the required distance from the core. He stated that he did not feel the addition would have any agricultural value, and he felt it was being used as a tool to control any change in the use of the land. He said if his 10-acre lot were sold and a family wished to subdivide it under the family partition regulations, the Agricultural and Forestal Districts Advisory Committee would impose a buffer and he opposed the addition to the Agricultural and Forestal District for that reason.

Mr. Preston Simms, adjoining property owner, asked the Board to deny adding the Westlake tract to the Agricultural and Forestal District.

Ms. Mary Lillard, Salem District, stated her property was aligned with the Westlake property and her main concern was the imposition of setbacks. She said that should she decide to sell her property in the future, the inclusion of the Westlake property into the Agricultural and Forestal District would have a negative impact on the resale value of her property. She stated that if setbacks would be an issue on resale of her property, she was

requesting that the Board deny the request.

Mr. Tom Underwood, Salem District, stated he was not an adjacent property owner, but had heard three of his neighbors speak against adding Mr. Westlake's property to the Agricultural and Forestal District. He asked that the application be denied since the property was not currently being used for agricultural purposes. He said that it was a long, narrow parcel with 16 acres when combining the two lots, and it would be a potential detriment to the neighbors.

With no further comments, Mr. Coates closed the public hearing.

Mr. Coates asked Mr. Egertson to address Mr. O'Bannon's question regarding the definition of "core". Mr. Egertson explained that the ordinance required a 200-acre core or contiguous mass of land in order to create a District, and once that core was created, any property within a mile of the core was eligible to join the District. He said his interpretation had always been that a property would qualify if it were within a mile of the edge of the core. He stated that the proposed addition was approximately 3,500 to 3,600 feet from the core and it would qualify based on his interpretation of the ordinance.

Mr. Egertson stated that in regarding to Mrs. Lillard's concern regarding the impact on her property, a simple addition of property to an Agricultural and Forestal District could not result in any buffer on any adjoining owner whether they sold it or not. He added that any subdivision, use permit or rezoning of adjacent property would result in a review and the possible imposition of a buffer on that property, but the simple addition to the District would not increase the current zoning setback.

Mr. Chase said he understood that the addition to the Agricultural and Forestal District would not affect the current zoning of the neighbors' properties. Mr. Egertson assured him that the current zoning would remain the same and unless there was a proposal for a subdivision or a rezoning would the adjoining Agricultural and Forestal District be taken into account.

Mr. Chase inquired whether the Agricultural and Forestal Districts Advisory Committee had the final approval on any proposed buffers. Mr. Egertson replied that Advisory Committee acted in an advisory capacity and did not have the authority to make a final determination. He said that on applications requiring a review by the Planning Commission, the Board of Supervisors made the final decision; but for any administrative

division, such as a minor division or a family division, the Advisory Committee made a recommendation and the Zoning Administrator made the final decision.

Mr. Coates asked what Mr. Westlake's responsibilities would be if his land were placed in an Agricultural and Forestal District. Mr. Egertson replied that a District ran for a period of eight years, and at the time the entire District was ready to expire, all members of the District would be notified and asked if they wanted to continue or opt out. He said if the property owners wished to continue, they did not need to take any action, but if they wanted to withdraw, they needed to notify his office in writing. He added that the primary impact on Mr. Westlake's joining a District would be a restriction from any kind of subdividing other a family division. Mr. Coates asked whether Mr. Westlake would have any agricultural responsibilities. Mr. Egertson replied that he would not. He said that the land use taxation program gave him responsibilities and demands for how he used his property, but the Agricultural and Forestal District and the land use tax issue were completely separate.

Mr. Chase moved, seconded by Mr. Rosenberger, to approve the addition to the Rillhurst Farms Agricultural and Forestal District.

Mr. Rosenberger noted there was a lot of misunderstanding regarding buffers. He pointed out that the Agricultural and Forestal Districts Advisory Committee was a recommending body by State law that specified that representatives of farmers, business owners, and regular homeowners would be included. He stated that when issues regarding buffering were considered, the type of activity in that agricultural operation was taken into account, and the Committee would not recommend a 299-foot buffer if the operation were not harmful to an adjacent homeowner. He said that buffers were a protective measure and were not intended to harm anyone.

Mr. Nixon asked with reference to Mr. O'Bannon's situation, if the lot were sold and the new owner wished to do a family partition, what was the likely case of a buffer being applied to that parcel. Mr. Egertson replied that the proposed division would be taken to the Advisory Committee to review what was being proposed and what kind of agricultural activity was adjacent to the proposed new lot, and they would impose a buffer from zero to 200 feet based on the circumstances. He said that recommendation would then be considered by the Zoning Administrator before his final decision. He said the intent was to put a buffer between incompatible uses, but in no case would a buffer be imposed that would completely eliminate the ability to create a lot.

Mrs. Hansohn asked what advantage there was for Mr. Westlake to be included in the District. Mr. Egertson stated he did not believe there was a great advantage for Mr. Westlake other than his commitment to try to preserve his property and the restriction on him or future owners from dividing within the eight-year term of the District. Mrs. Hansohn indicated that Mr. Westlake could opt out of the District with the Board's approval, so she did not see any advantage for him to join.

Mr. Coates asked what uses Mr. Westlake would have. Mr. Egertson stated that he could do anything that he was currently doing now if the request were approved. He said the RA zone allowed agricultural uses by right and there was no effect on his uses other than to limit him against subdivision and other development opportunities. Mr. Coates asked whether Mr. Westlake could be further restricted. Mr. Egertson replied that he did not believe any use could be restricted that was allowed under the current zoning and no limitation could be tied to the property when joining an Agricultural and Forestal District.

Mr. Aylor stated he was going to support the motion because the Planning Commission had demonstrated its commitment to adding land into the Agricultural and Forestal Districts. He said he appreciated Mr. O'Bannon's and the neighbors' concerns about unwanted conditions imposed on their property, but his experience serving as an alternate on the Agricultural and Forestal Districts Advisory Committee was that no boundaries were imposed that stopped a family division or had an adverse effect on the property.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

CASE NO. U-834-07-2. Request by Michael E. Horst for renewal of an existing use permit to allow an archery range for members and guests. The property is located off Route 673 in the Stevensburg Magisterial District and contains 30.24 acres. Tax Map/Parcel Nos. 35/8B, 8D.

Mr. Egertson displayed a copy of the tax map that highlighted the location of the property being requested for a use permit renewal. He stated that the case had been postponed at the last regular Board meeting due to several safety concerns raised during the public hearing, and Mr. Chase had asked that a State Game Warden be consulted. He

stated also that Mr. Walker inquired about the possibility of posting signs to identify the property.

Mr. Egertson reported that he had contacted Officer Jon Simmons, Department of Game and Inland Fisheries, and had provided the Board of Supervisors with a memo regarding that conversation. He said that Officer Simmons was present, but a use such as an archery range was not regulated by the Department of Game and Inland Fisheries since they primarily regulate hunting activities. He stated that he had provided the Board with a set of revised use permit conditions for consideration that were essentially the same conditions recommended by the Planning Commission except that (1) Condition #4 had been modified at the request of the applicant to allow the use of crossbows by disabled individuals only; and (2) Condition #5 had been added to require the applicant to post signs at each of the entrances to the property indicating the existence of the archery range and to post "no trespassing" signs around the perimeter of the property. He stated that the Planning Commission and the staff were recommending approval of this request, and it was ready for the Board's consideration.

Mr. Coates announced that a public hearing had been held on the case at the last meeting, and it was the desire to have the Game Warden come and address some of the questions and concerns of the Board. He stated unless there were objections, he would not reopen the public hearing since all parties had been heard previously.

Mr. Jon Simmons, Virginia Game Warden, Department of Game and Inland Fisheries, Law Enforcement Division, thanked the Board for inviting him and stated he would endeavor to answer any questions.

Mr. Chase stated he was aware of the standoff distance from the road for deer hunting, and asked what the standoff was for a bow. Mr. Simmons replied that Culpeper County had only adopted an ordinance in regard to firearms, and there was currently no County ordinance or State law that prohibited a bow from operating adjacent to the roadway in a hunting condition.

Mr. Chase asked whether or not he had contacted other counties. Mr. Simmons replied that in his experience all ordinances related to firearms.

Mr. Rosenberger inquired whether a hunter could shoot in a right-of-way. Mr. Simmons replied that the Culpeper County ordinance prohibited that in most cases, with the exception of having permission from the landowners on both sides of the road.

Mr. Coates asked what the distance was for a firearm from the roadway. Mr. Simmons replied that the County ordinance stated 100 yards.

Mr. Walker inquired whether there was also a similar State ordinance. Mr. Simmons replied that State law prohibited an individual from shooting across a roadway or into a roadway. Mr. Walker asked whether there was a State law designating some setback from the road in which to shoot a firearm. Mr. Simmons replied that the State developed the ordinances that the counties adopted, and Culpeper County had adopted three ordinances.

Mr. Nixon asked what was considered the lethal range of a compound bow. Mr. Simmons stated he was not aware of any documentation regarding the lethal range of a bow in a hunting condition, but the typical distance at which big game animals were shot was typically 20 yards and under.

Mr. Chase asked whether a bow and arrow was considered a lethal weapon. Mr. Simmons replied that a bow and arrow was a very effective hunting tool.

Mr. Coates thanked Mr. Simmons for coming to answer the Board's questions.

Mr. Nixon asked for clarification regarding Condition #4. Mr. Egertson explained that the condition was placed by the Planning Commission and the intent was to prohibit the use of crossbows, but at the request of the applicant, language had been added for the Board's consideration that stated that the use of crossbows was prohibited "except that properly supervised disabled individuals may use crossbows on the range".

Mr. Chase stated his primary concern was safety in a highly controlled area and accidents would occur no matter how controlled an area was. He said he had walked the course of the archery range and because of the increased traffic, the concerns of the neighbors, and the safety of the work crew on the onsite tower, he could not support the request.

Mr. Chase moved, seconded by Mr. Walker, to deny the request and to return the application fee to the applicant.

Mrs. Hansohn stated that she would not support the motion because the archery range had been in existence for approximately 11 years with no reported accidents. She said the range was located in a rural area, and many 4-H children had utilized it for training safely. She felt it was an asset to the community.

Mr. Nixon stated he understood Mr. Chase's concerns, but he agreed with Mrs. Hansohn that the facility provided good training for youth to become responsible hunters

and responsible citizens. He felt that the applicant had demonstrated that the range was properly patrolled and built to safety codes, and he would not support the motion for those reasons.

Mr. Chase pointed out that his District had changed and what was safe 11 years ago was not safe today because of the increased traffic and housing in the area.

Mr. Rosenberger stated he could not support the motion because he did not believe that the youth of the community should be deprived of the opportunity to participate in archery activities. He felt it was unfortunate that a pet had been lost, but he hoped that the neighbors and the applicant could find a way to work together.

Mr. Aylor stated he was not going to support the motion. He said he was a former bow hunter and archery provided recreation for all ages. He added that the Board would have an opportunity to review the use permit in three years.

Mr. Coates called for voice vote and a show of hands.

Ayes - Chase, Coates, Walker

Nays - Aylor, Hansohn, Nixon, Rosenberger

Motion failed 4 to 3.

Mrs. Hansohn moved, seconded by Mr. Aylor, to approve the use permit with the five conditions stated by Mr. Egertson.

Mr. Walker stated he had supported Mr. Chase's motion because of his respect for Mr. Chase's understanding of his neighborhood and the housing in his District, but he would support the motion on the floor as well.

Mr. Coates called for voice vote.

Ayes - Aylor, Coates, Hansohn, Nixon, Rosenberger, Walker

Nay - Chase

Motion carried 6 to 1.

Mr. Coates called for a recess at 8:40 p.m.

Mr. Coates called the meeting back to order at 8:50 p.m.

NEW PLANNING COMMISSION BUSINESS

ADDITION TO THE REMINGTON/KELLY'S FORD AGRICULTURAL AND FORESTAL DISTRICT. Request by Richard Calloway and Heningham E. Scott to add 618.17 acres to the Remington/Kelly's Ford Agricultural & Forestal District. The property is located on

Route F717 in the Stevensburg Magisterial District. Tax Map/Parcel Nos. 34/71, 72 and 35/1A.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission agreed with the Agricultural and Forestal Districts Advisory Committee and found the 618.17-acre addition to the Remington/Kelly's Ford Agricultural and Forestal District to be appropriate. He said the Planning Commission was recommending to the Board of Supervisors that this addition to the District be approved,

Mr. Egertson read a letter dated May 24, 2007 that he received from Mr. John J. Davies III, asking that action be deferred on the Agricultural and Forestal District request from the Callows until the July meeting to provide additional time for the Callows to meet with the Willow Run applicant to determine how their concerns could be addressed.

Mr. Coates opened the public hearing and called for public comments.

Mr. George Bryson, Jefferson District, stated he attended the Planning Commission hearing on the case and heard opposition from several neighbors who were concerned about the impact the addition would have on their property. He felt that as much property as possible should be included in the Agricultural and Forestal Districts in order to preserve the agricultural nature of the County.

With no further comments, Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Nixon, to postpone the case for 30 days.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

Mr. Coates recognized Boy Scout Troop 196 from St. Luke's Church, who were in attendance in support of their merit badges, and thanked them for coming to the meeting.

CREATION OF THE POINT OF FORK AGRICULTURAL AND FORESTAL DISTRICT.

Request by Richard and Barbara Holden to add 189.58 acres and Hilaire G. DeGast of the DeGast Family Revocable Living Trust to add 101 acres to a newly created Point of Fork Agricultural & Forestal District to contain a total of 290.58 acres. The properties are located on Route 619 in the Stevensburg Magisterial District. Tax Map/Parcel Nos. 71/16C, 17 and 16.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission concurred with the Agricultural and Forestal Districts Advisory Committee and found that the creation of the Point of Fork Agricultural and Forestal District was a viable and value addition to the Districts in the County. The majority of the proposed District is forested. He said the Planning Commission was recommending to the Board of Supervisors that the creation of this 290.58 acre Point of Fork District be approved.

Mr. Egertson displayed a copy of the tax map that highlighted the location of the three parcels, which two landowners proposed to combine to make a new Agricultural and Forestal District. He stated that the total acreage exceeded the 200-acre minimum requirement and was not too near any other District. He said that the name of the new Point of Fork District was based upon the proximity to the confluence of the Rapidan and Rappahannock Rivers. He also displayed an overall County map with all of the Agricultural and Forestal Districts, with the new District highlighted in the far eastern tip of the County. He said that the proposed additional was a viable District, with forestry land, and it was being recommended for approval for a period of eight years.

Mr. Richard Holden, applicant, stated he was representing all of the property owners and hoped that the Board would approve the request.

Mr. Coates opened the public hearing and called for public comments.

Mr. Warren Manuel stated that his land bordered the land being proposed for an Agricultural and Forestal District. He expressed his concern that when the encumbrances were placed on the land, no one knew what the intentions were. He felt there were problems with the ordinance and there must be a better way to enforce it. He added that he was a good friend of Mr. Holden, and whether the request was approved or not, they would remain good friends.

With no further comments, Mr. Coates closed the public hearing.

Mr. Chase stated that he had never seen any encumbrance placed on any landowners who had joined an Agricultural and Forestal District. He said the landowners could continue to use their land for agricultural purposes and protect the open space at the same time.

Mr. Chase moved, seconded by Mr. Aylor, to approve the creation of the Point of Fork Agricultural and Forestal District.

Mr. Rosenberger pointed out that once land was put into a Agricultural and Forestal District, the landowner was agreeing not to do anything more intense with the land than to farm it during the term of the District. He said the landowner would not be developing the land for residential, commercial, or industrial uses, and he/she was giving up a lot to have the protection of the District.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

CASE NO. Z-415-06-1. Request by Culpeper Crossroads, LLC, to rezone 66.27 acres from RA (Rural Area) to CS (Commercial Services). The Comprehensive Plan designates this area as commercial but does not indicate specific densities. The property is located on Route 3 and Route 15/29 in the Stevensburg Magisterial District. Tax Map/Parcel Nos. 51/83C, 84, 84E, 84J, 84M and 84P.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission felt that the request was in conflict with the Comprehensive Plan based upon traffic impacts, encroachment on adjoining agricultural property, and lack of availability of infrastructure. He said the Planning Commission was recommending to the Board of Supervisors that the rezoning be denied.

Mr. Egertson displayed a copy of the tax map that highlighted the location of the property proposed for rezoning and indicated the surrounding zoning of RA (Rural Area), various residential categories and industrial. He said the applicant was seeking to rezone 66.27 acres from RA to CS (Commercial Services) for a retail shopping center up to 591,410 square feet. He stated that the request was recommended for denial by the Planning Commission, although the staff recommendation was for approval.

Mr. Egertson displayed the initial concept plan and rezoning proposal submitted by Culpeper Crossroads and indicated that staff objections to the plan were that it was an 81-acre proposal, it included a stream crossing on the property that created some concern for environmental impacts, it was a fairly traditional layout of a strip center, and it had a high number of pad sites along the primary roads. He stated that the concept plan being considered had been reduced from 81 to 66 acres by removing everything on the opposite side of the stream in the northeast corner, leaving that in the RA zone, and making the building layout more pedestrian friendly.

Mr. Egertson provided the following staff report:

Comprehensive Plan/Land Use. The 2005 Comprehensive Plan designated this area as commercial. This property was the subject of a specific Comprehensive Plan amendment prior to adoption of the 2005 Plan. During consideration of that amendment, it was noted that access to this commercial development would ideally include the creation of a full four-way intersection at Routes 3 and 522. The applicant has accounted for the potential implementation of that concept in the future, but does not control the property necessary to ensure its implementation. Since the Planning Commission's last consideration, the applicant has added a proffer to provide the design for this future access point at the intersection of Routes 3 and 522. In general, the Comprehensive Plan and the area character support commercial development of the property. It is located on the interchange of two major roadways with a third primary road (Route 522) in close proximity. There is multifamily residential zoning directly across Route 3, and light industrial and commercial zoning on the other side of the interchange.

Transportation/Access. The proposed concept plan for the rezoning includes two access points on Route 3. One is the primary intersection with a crossover, turn lanes and signalization. The second is a right-in, right-out only connection to Route 3. As previously noted, allowance has been made for an interparcel connection which could eventually connect the shopping center to the four-way intersection planned at Routes 3 and 522, for which the applicant has proffered to provide the design. VDOT has lent support to this project with the accompanying proffers.

Water and Sewer Service. The project will require public water and sewer service, which has been proffered. A proffer ensuring public service at the discretion of the County is in keeping with other recent commercial rezoning requests. Construction of any necessary offsite water and sewer line extensions, necessary pump stations, etc., are to be at the applicant's expense, although potential pro rata reimbursement for future development is reserved. Future County well sites are proffered for dedication to the County.

Agricultural and Forestal District. There is an adjoining Agricultural and Forestal District and the property which is subject to this rezoning is adjacent to two parcels that are enrolled in the District. The Agricultural and Forestal District parcels are directly to the east of the rezoning and on December 28, 2006, the Agricultural and Forestal Districts Advisory

Committee recommended a buffer of 200 feet undisturbed from this Agricultural and Forestal District. The applicants have proffered a varying width buffer which ranges from 75 feet to 200 feet of no build buffer with 25 feet of that being an undisturbed buffer and a landscape berm has also to be provided within the buffer, which is also a newly added proffer since the Planning Commission considered this case. Clearly the buffer offered by the applicant is less than that was recommended by Agricultural and Forestal Districts Advisory Committee and this was one of the primary points of contention during the Planning Commission's consideration. The buffer as it is currently proposed and shown on this concept plan is a variable width buffer with a 200 foot buffer along approximately 650 linear feet of property, a 100-foot buffer along approximately 1,400 linear feet adjacent property and a 75-foot buffer along approximately 500 linear feet of adjacent Agricultural and Forestal District property.

Concept Plan. The site layout now provides for some green space as a result of the 15-acre area that has now been removed from the rezoning request and is being left open. This also avoids a stream crossing. The number of pad sites was reduced and some of the pad sites were also reconfigured at staff request, and the design has been amended to create a pedestrian friendly atmosphere with some pedestrian friendly features. This concept plan as proposed is proffered.

Proffers. The proffer document includes a number of items as noted:

The concept plan is proffered and general conformance with that plan would be required.

Traffic improvements are set forth in a phased manner with Phase 1 being up to 150,000 square feet of development; Phase 2 up to 250,000 square feet; Phase 3 up to 500,000 square feet; and prior to anything beyond 500,000 square feet a new traffic study required.

There are proffers involving environmental landscaping and buffering, in which a 50-foot stream buffer is provided. Landscaping in the buffer areas is to conform to a typical berm section previously provided. The buffering of the Agricultural and Forestal District property has been proffered as described earlier, and the applicant does agree to design and construct a bike trail along Route 3, if feasible.

Public water and sewer and dedication of potential well sites which were identified by the County have been proffered.

Under stormwater management, the proffer addresses the implementation of low impact development (L.I.D.) techniques and requires a low impact development review of the site before any site plan is accepted.

There is a request for an ordinance modification, which can be approved by this Board as part of the proffers, which would reduce the setback from Routes 15/29 and 3 from 125 feet to 80 feet for those pad sites.

Agency Reviews. VDOT has reviewed the project and the accompanying traffic study, and can recommend approval. Soil and Water Conservation District has fully reviewed the project and provided a detailed comment letter dating back to October. The applicant has provided a written response to that letter and has proffered assurance that the site will be evaluated for L.I.D. opportunities prior to submittal of any site plan and the other issues addressed by the Soil and Water Conservation District are primarily site plan issues that can be addressed at that time.

Staff Recommendation. The location of this property is appropriate for commercial development, and commercial development at this site is consistent with the Comprehensive Plan and staff recommends approval as consistent with the Plan. However, the Planning Commission has recommended denial based on their concerns with access, timing and the impact on adjoining agricultural uses.

Mr. Egertson provided the Board with the most recent set of proffers and noted that they were essentially the same as those reviewed by the Planning Commission with the additional changes of the design of an entrance way at Routes 3/522, addressing the dedication of well sites to the County in accordance with recommendations from the County's Environmental Services Director, and to add the berm and landscaping to Agricultural and Forestal buffers. He presented a copy of a letter received from an adjoining owner in support of the proposal and said the request was ready for the Board's consideration.

Mr. Coates asked for confirmation that all agencies had reviewed the proposal. Mr. Egertson assured him that the case was reviewed by the Soil and Water Conservation District; VDOT; the Town, because of its close proximity; and all County agencies, such as the Department of Environmental Services.

Mr. John J. "Butch" Davies III, attorney representing Culpeper Crossroads, LLC, stated that Mr. Steve Vento, Mr. Mike Stumpo and Mr. Joe Wilson of Angler Development,

were also present. He said that as the staff report indicated, the project had been an ongoing effort, and one of the issues of concern was the stream. He stated that when Angler Development began looking at the property approximately one year ago, they walked the property with the Army Corps of Engineers and DEQ, who made it very clear that the stream needed to be protected and Angler subsequently proposed a buffer of 50 feet on each side of the stream and eliminated the request for rezoning on the other side of the stream. He said the applicants recently received a mailing from people who were concerned about the man-made Kilpatrick Pond, and the Army Corps' only concern was that the fish be captured and moved when the pond was removed, and the applicants agreed to do. He noted that a request was made for a low impact environmental use, and that would be addressed at every site plan review.

Mr. Davis stated that the buffer issue had been discussed extensively and was fairly sensitive because the Agricultural and Forestal District recommended 200 feet, and 200 feet created a problem for the applicants when they redesigned to make the center more pedestrian friendly, but proffered a landscape berm that would create a visible block of the property. He noted there had been civil litigation involving the Wolfrey Trust, Greg Olinger, Trustee, and Mrs. Campbell when the land was sold to Angler Development, and that included negotiations on the buffer. He said the buffer was negotiated and inserted in the deed, as well as in the agreement, and the language used was repeated in the proffer with the 200 feet, the 100 feet and the 75 feet. He stated there was no provision for the berm with the landscaping, but that had since been added as an accommodation to provide additional protection.

Mr. Davies stated that another sensitive issue was the lack of a residential component to the project, but the real focus was on providing the commercial need in that particular location. He cited a fiscal impact study that indicated approximately \$16 million would be generated by this project over a ten-year period, which would be a significant benefit for the taxpayers since it would be in the range to paying for an elementary school. He stated an effective argument for why commercial was planned for that area was because it was where the roads came together and significant traffic was generated. He said the proffers addressed transportation, environmental concerns, and historic preservation, and the concept plan was pedestrian friendly, inward facing, and on a smaller scale to create a courtyard appearance.

Mr. Davies stated that the changes made since the Planning Commission recommendation had addressed the issues of additional buffering by providing a landscape berm and withdrawing the request for development across the stream. He said that an additional concern surfaced after the Planning Commission meeting regarding the intersection at Route 522, and the applicant had agreed to provide the design for that particular intersection even though it was not practical to build an entrance at that location at the present time.

Mr. Walker inquired about the outcome of the situation regarding the deeds on the Wolfrey property regarding eliminating commercial development. Mr. Davies stated that the issue was settled when the title insurance company decided that the withdrawal of that provision by the property owners was legitimate and provided title insurance on the property.

Mr. Coates opened the public hearing and called for public comments.

Mrs. Laura Campbell, Stevensburg District, adjacent property owner, stated that the Comprehensive Plan and the footprint for the project did not follow the same configuration. She also stated that a 3,000 vehicle car park was an enormous pavement, and the site was more of a transition zone than a destination spot because it would not connect Culpeper. She referenced a letter from the Soil and Water Conservation District to which the developer had not responded. She asked that the concept plan be denied because an L.I.D. had not been addressed, particularly with regard to the runoff from the pavement. She pointed out that the soil was prime farmland and a valuable resource to the County and the State. She discussed the area and stated that Mount Pony had been designated as a protection site by the Department of Conservation and Recreation so it would never be developed and the Library of Congress had been transformed into a magnificent facility. She stated that her 150-acre farm was on the National Register and had been landmarked on the 175-mile trail from Gettysburg to Monticello. She did not believe the economic incentives outweighed the value of the area's natural resources and suggested that the site would be better used as a natural park for the County.

Mrs. Jo Anne Russell, Stevensburg District, stated that having an open space across the stream did not negate the Agricultural and Forestal buffer requirement and asked the Board to give the utmost importance to the Agricultural and Forestal regulations.

Ms. Wendy Owen, Stevensburg District, stated she and her husband lived farther east in the John and Virginia Hill house on Route 3. She stressed the importance of maintaining the farming district and stated she was opposed to a strip mall. She agreed with Mrs. Campbell's idea for a park, but would carry it a step further and have a teaching farm in that location. She urged the Board to preserve the integrity of Culpeper and keep farming a priority.

Ms. Desy Campbell, Stevensburg District and adjoining property owner, read a letter from the Snyders who lived at Berryhill on a 1,000-acre farm and tree land. The letter expressed their opposition to the rezoning because it would set a precedent for all the land not only in the Stevensburg Agricultural and Forestal District, but throughout Culpeper County. She then presented a petition signed by many of the neighbors in opposition to the rezoning. She cited her major concerns were the lack of public water and sewer access, the inadequate traffic flow at the busy intersection, the inadequate and improper buffers between the agricultural land in the Agricultural and Forestal District, and the already overabundance of commercially zoned land in the County. She stated that she was concerned about the elevation of the berm and suggested the trees not be planted behind the berm, rather than on the top of the berm, and have shorter bushes in the front to provide a multiple-layer berm. She also expressed concern that the runoff from the parking lot would contaminate the stream from which her cattle drank year-round. She asked that the Board deny the request.

Ms. Margaret Campbell, Stevensburg District, urged the Board to reevaluate the direction in which Culpeper should go in the next 100 years. She stated that Culpeper did not need another major retail commercial center, because it was already overbuilt and could not sustain the current shopping centers. She asked the Board to place a year-long building moratorium to allow time to study what Culpeper should look like, without the constant pressures by developers. She said that once agricultural land was developed, it was lost forever and agriculture had been the economic base of the County for a long time. She stated that Mr. John James, a landscape architect, pointed out at the Planning Commission meeting that the codes dealing with buffers and no-build zones were contradictory. She also stated that staff was making a recommendation that was counter to what was recommended by the County Soil and Water Conservation Board. She asked the

Board to deny the request for rezoning in consideration of the implications their decisions had on the individual farms.

Mr. John James, landscape architect from Orange, stated he had reviewed the proposed concept plan, as well as the Comprehensive Plan and Zoning Ordinance of Culpeper County. He said the developer's proffer of a 25-foot natural buffer along the common property line with the Campbells was no proffer at all when the landscape buffer required by the Zoning Ordinance was a minimum of 30 feet between any commercial development and agricultural lands. He pointed out there was no buffer on the concept plan except where the property fronted on public roads. He said that the interior roads, stormwater management basins, parking, and presumably lighting and utilities ran to within 25 feet of the property line separating the Campbells' farm and the shopping center. He pointed out that the purpose and intent of landscaping and screening between properties was to protect the scenic character and quality of life. He maintained that the buildings, parking lots and area lighting were not sufficiently shielded from view. He recommended that the developer provide the landscape buffer no narrower than 50 feet and that it consist of berms, or fences, or walls and plantings, to prevent light, air, water and sound pollution from leaving the developed site and provide a visible shield from views of buildings, parking, lighting and utilities from offsite.

Mr. Shack Shackleford, attorney, stated he had been asked by the Campbells to look at the buffer issue and the separation of commercial areas and agricultural areas. He pointed out that the project would be in a critical location on a very significant entrance corridor into Culpeper County and into what now was a vibrant agricultural area. He said the Stevensburg Agricultural and Forestal District was one of the more successful agricultural districts in the County and the Croftburn Farm was a model for both County and the State. He said that serious consideration of the buffer issue began with the Agricultural and Forestal Districts Advisory Committee when it recommended unanimously that the buffer be 200 feet of undisturbed space. He said he differed with staff in that Section 8E7 indicates the buffer was governed by the size of the parcel and any parcel that is over 26 acres, the maximum buffer can be 250 feet, so the Agricultural Advisory Committee did not recommend the maximum buffer; they recommended 200 undisturbed and the maximum was 250 feet. He said the buffer issue came up again at the Planning Commission level and the applicant brought up the issue of the agreement in the civil litigation, which he felt

was not relevant to the Board's consideration. He said the Board had to apply the ordinances irrespective of agreements between private property owners and consider that the Planning Commission, after an extensive debate on the buffers and public utilities, voted to recommend denial by a six to three vote. He pointed out that the only change made since the Planning Commission vote was the addition of a three-foot berm in the buffer, with no change in the width of the buffer.

Mr. Shackleford pointed out an error in the buffer proffer which stated that the buffer would be along the property line with Tax Map 51/84R and 51/82, but Tax Map 51/82 did not even adjoin this property. He also pointed out that one of the proffers stated no commercial structure would be built in the "no structure zone", but the developer was proposing uses and improvements such as parking areas, etc., and such other related commercial facilities. He said he was very concerned regarding the issue of planning because the project would need public water and sewer and the proffers had no sunset clause for public water and sewer infrastructure. He said the project at this point was not properly prepared and should not be approved at this critical location.

Ms. Ann Deal stated she was the Chair of the Agricultural and Forestal Committee in Spotsylvania County, as well as chair and/or member of various agricultural and conservation committees. She said she was speaking on behalf of preserving farm and forestry land because no one benefited from large developments with huge parking lots and large stores.

Mr. John Baldrige, Jefferson District, stated he had served on the Culpeper Soil and Water Conservation District for 25 years. He reminded the Board that the County had natural resources that must be preserved and stated that the developer should be required to install porous pavement for the parking lot so that the water could drain through the pavement rather than run off. He pointed out that \$16 million figure in revenue to the County did not include the additional costs for services that would ensue.

Mr. Chip Byrd spoke in opposition to the rezoning because he did not want to see another strip mall like the ones in Manassas. He pointed out that the developer did not own the land to access the property from Route 522.

Mr. Perry Cabot stated that CCC had forwarded a detailed analysis, but he would summarize four major concerns: (1) There were errors in the fiscal impact analyses, basically because those preparing them were accustomed to working with large counties

and assumed that assessment schedules, incremental budget and CIP fluctuations, and growth rate impacts were the same in small counties, and estimated the net future value between \$7.5 million and \$9 million instead of \$14 million; (2) the footprint for the proposal was larger than designated in the Comprehensive Plan; (3) VDOT used minimum standards and a more conservative public safety position would be preferred, particularly where the entrance deficiency could be reasonably and reliably foreseen; and (4) there was sufficient case law on buffers and it should not still be an issue since a municipality could not be bound by private agreements.

Mr. Campbell stated he was the youngest of the Campbells and his biggest concern was maintaining prime agricultural land and its streams. He felt it was a serious mistake for the County to even consider this proposal for rezoning.

Mr. Chip Russell, Stevensburg District, stated he agreed with the concerns expressed by his wife and added that agricultural agreements between individual parties did not constitute an ordinance. He expressed concern with VDOT's minimum standards, particularly with the increased traffic, insufficient traffic lights, runoff from the 3,000 parking lots, and reduced buffers. He stated the proposed project was not good for the community.

Mr. Bill Barron, Stevensburg District, stated he would address the rezoning issue because he did not believe it was appropriate to squeeze a large project into a small space. He said he was present to support farming and the Campbell family, and he did not believe that the proposed buffers were sufficient to protect the adjoining properties and was particularly concerned about the uses in the "no structure zone".

Mr. Andrew Grigsby, Stevensburg District, suggested there were contradictions in the Comprehensive Plan and more attention needed to be given to parcels on maps versus more the general ideas that were stated. He said the historic and scenic resources of the County should be protected, particularly prime agricultural farmland. He asked the Board to think about the intent of the Comprehensive Plan when considering whether properties were appropriate for intense urban development.

Mr. Steve Vento, Angler Development, stated he had several points to make and then would then be glad to answer any questions. He said the land was purchased in January 2005, negotiations were started, and land was sold to the Campbell family for less than what was paid for it because the agreement included some consideration for buffers and the dismissal of a chancery suit. The deed of transfer clearly stipulated the buffers as

proscribed in the proffer. He stated that the issues involved with low impact development would be addressed at the site plan review and all standards and ordinances would be adhered to. He also stated that the traffic improvements have been mutually agreed upon with VDOT and the developer had agreed to set the cornerstone for the extension of Route 522.

Mrs. Hansohn asked for an explanation of what could be built in the no-build buffer zones. Mr. Vento replied that there would be natural vegetation behind the initial 25 feet of the buffer and the balance of the buffer could be utilized for roadways, parking, stormwater management facilities and site lights.

Mr. Walker questioned the size of the parking lot. Mr. Vento explained that until the retailers were defined and had specified their parking requirements, the worst case scenario had been shown on the concept plan because some retailers required more spaces than others.

Mr. Walker asked for additional information on the cornerstone at Route 522. Mr. Vento explained that the design was at the engineering stage at the present time because Angler did not control the adjacent piece of ground and VDOT had a limited right-of-way there. He added that if Angler or someone else purchased the James property, a cornerstone could be set for the extension, and Angler had proffered to pay for the engineering design so that the connection could be made at a later date.

Mr. Rosenberger asked whether Mr. Vento agreed to implement an L.I.D. Mr. Vento replied that he was committed to implementing an L.I.D. Mr. Rosenberger indicated that Mr. Vento's statement did not correspond to proffer statement.

In reply to numerous questions posed by Mr. Nixon regarding buffers, Mr. Vento indicated that the Campbells had agreed to the buffers to protect them from the property purchased by the developer, but when the case was considered by the Agricultural and Forestal Districts Advisory Committee and the Planning Commission, they asked for a 200-foot buffer for the entire perimeter of the property that adjoined their property to protect their on-going farm operations. He said the developer had proffered to substitute berms or other measures in place of a buffer that would provide more protection to the property owner.

Mr. Nixon asked whether the Planning Commission and staff had reviewed those conditions for the buffers. Mr. Vento replied that the proffer on the berm had been made after the Planning Commission meeting, but that staff had reviewed it and agreed to it.

Mr. Nixon asked why the developer sold the Campbells the 31 acres of property for less than they paid for it. Mr. Vento stated it was not a good business deal, but they had the additional consideration of the resolution of the Chancery suit and the establishment of the buffers. He added that if they had not sold the 30 acres to the Campbells, that would have been their buffer area.

Mr. Nixon asked for clarification on the perimeter of the buffers. Mr. Vento indicated on the map the location of the 200-foot buffer and where it was reduced to a 100-foot buffer and then to a 75-foot buffer. He stated that the largest buffer was where the Campbell property had the most exposure.

Mr. Walker asked Mr. Egertson to indicate on the map where the actual parcels were in relation to the footprint in the Comprehensive Plan. Mr. Egertson noted that the Comprehensive Plan was a general guideline, but the footprint in the Comprehensive Plan was approximately two-thirds of what was being requested to be rezoned.

Mr. Coates inquired how the developer intended to protect the stream on the property. Mr. Vento explained they would not be allowed to discharge more into that watercourse than currently was discharged in accordance with Corps of Engineers and DEQ regulations. He said, in addition, the 50-foot buffer around the stream would provide natural filtration.

Mr. Coates asked how onsite water would be retained. Mr. Vento replied that when the design phase began, he would know the exact square footage of what would be built and any L.I.D. procedures needed to be implemented. He said that typically two large areas were reserved for surface retention ponds, but that would not preclude installing any underground retention if needed.

Mr. Rosenberger asked how 64 acres of impervious cover on a 66-acre parcel could be developed from a low impact development standpoint. Mr. Vento explained that consideration would be given not only to the surface area, but also to the depth and the cubic foot of volume to be stored, and those would be considered in the design phase of the project according to established standards.

Mr. Walker asked how the oils and byproducts from the parking lot would be removed before entering the stream. Mr. Vento replied there the Corps of Engineers and DEQ had stringent requirements that he would adhere to regarding the quality of runoff.

Mr. Coates closed the public hearing.

Mr. Nixon said he realized that a conceptual design was being reviewed and not a final design, but he wondered if there would be any problems with the Corps of Engineers in removing and relocating the onsite pond. Mr. Egertson replied his understanding was that the applicants had already been in discussions with both the Corps of Engineers and DEQ and they would be permitted to fill in that pond and relocate the fish.

Mr. Nixon asked whether staff felt that the berming and buffers were adequately addressed. Mr. Egertson replied that staff was willing to support the concept plan being considered, but ultimately the decision would lie with the Board. He stated there was an agreement between the parties regarding the buffers, but the Agricultural and Forestal Districts Advisory felt that a 200-foot, no disturb, buffer would be needed to protect the current agricultural operation from lighting and other commercially related improvements. He stated that both sides had to be weighed, but as a Planning Director he was satisfied with the application.

Mr. Walker asked whether the Planning Commission had considered a larger concept plan or the current one. Mr. Egertson replied that the Planning Commission had reviewed the current concept plan, and the only changes that had occurred since the Planning Commission's recommendation for denial were to add the berm into the agricultural buffer, to proffer the design of that intersection at Routes 3 and 522, and to add a minor change requested by Mr. Howard to ensure the dedication of the well lot to the County.

Mr. Walker asked whether staff had any concerns with the proffer language. Mr. Egertson replied that after hearing Mr. Shackelford's comments, he had one concern regarding the tax map numbering error. He explained that when a portion of the Angler property was sold to the Campbells, a new tax map number was assigned and the proffer statement should read "Tax Map/Parcel 51/84R and 51/84M1" instead of Tax Map/Parcel 51/84R and 51/82. He added that other than that one change, he was confident in the language.

Mr. Coates asked whether any further development was envisioned beyond Route 522. Mr. Egertson replied that the only development in the Comprehensive Plan beyond Route 522 was the property referred to as the Beasley property purchased by Mr. Rasheed. He noted that Mr. Rasheed accepted a recommendation from the Planning Commission to rezone that parcel to commercial, which he went through with, and it was purchased by the

Packard Humanities Foundation. He said his understanding was that the intent was to leave the property open to protect the view from the Library of Congress facility.

Mr. Coates expressed concern about the area opposite the Route 522 intersection. Mr. Egertson explained that the parcel at that intersection, which was directly adjacent to this parcel being requested for rezoning, would be supported in the Comprehensive Plan for further commercial. He said if the request currently before the Board was approved and the parcel across the road was eventually developed, the four-way intersection at Routes 3 and 522 would be required. He also said that beyond the adjoining James property at Routes 3 and 522, there was no indication of further commercial development.

Mr. Nixon commented that the protection of farmland versus the use of farmland for development was a difficult decision to make, but the property rights of individuals had to be considered. He said the Campbells had a right to use their land for farming, and Angler Development had the right to develop the land they bought. He stated that after listening to the discussion, he felt that the concept plan and the proffers adequately addressed the issues, and many of the concerns could be taken into account during the site plan reviews.

Mr. Chase stated his preference would be not to have any more building, but the request was in accordance with the Comprehensive Plan.

Mr. Chase moved, seconded by Mr. Aylor, to approve the request for rezoning and the proffers with the one tax map correction.

Mrs. Hansohn agreed that Angler Development had done a good job in the past and that additional tax revenue was needed for new schools and other projects, but she wanted to be sure that the County was getting the best plan possible. She said that 591,410 square feet of development was too much at that location. She expressed concern regarding the VDOT recommendations and what the ultimate plan would be. She agreed that low impact development techniques could be reviewed at the site plan stage, but the location was one of the gateways into the County and she felt the plan could be improved.

Mr. Rosenberger stated it was appropriate to have commercial development at the intersection of Routes 3 and 29 and it was in line with the Comprehensive Plan, but the County had not been guaranteed anything under the proffers attached as part of the rezoning request. He questioned who would be responsible for improving the roads and correcting any bottlenecks that would occur with this commercial development and residential across the road when VDOT did not have adequate funding. He said there were

many other concerns to be addressed as well, such as the size of the stores and the amount of impervious cover.

Mr. Aylor stated he seconded the motion for discussion purposes and because he felt the good points outweighed the bad ones. He said he had a lot of faith in the Planning Commission and staff to address concerns during the site plan process, and he trusted Angler Development to work with them to provide what was best for the citizens of Culpeper.

Mr. Walker thanked Mr. Vento and Angler Development for adding the new proffer to design the Route 522 intersection, but felt that the project was much larger than what the Comprehensive Plan had approved and did not adequately address the traffic issue. He said to be consistent with how he voted on the Bowman tract and Culpeper Business Center because VDOT had not brought forward a plan to address traffic problems, he would not support the motion.

Mr. Coates pointed out that if the rezoning request were approved, the Board would not see the site plans because that site plan review was done at the Planning Commission level. Mr. Egertson agreed that site plans were reviewed at the Planning Commission level, but with the benefit of input from VDOT, Health Department, Soil and Water Conservation District, and County staff, he felt it would be a good project.

Mr. Coates asked for clarification regarding how traffic problems would be addressed. Mr. Egertson explained that the proffers were specific on what the improvements would be based on a traffic impact analysis that has been reviewed by VDOT, but they could be adjusted and/or improved if necessary.

Mr. Coates asked who would be responsible for the cost of the proposed traffic signal. Mr. Egertson replied that the applicant would pay for the total cost.

Mr. Rosenberger asked what the total cost of the traffic light would be. Mr. Egertson replied that he did not have the answer.

Mr. Coates asked Mr. Donald B. Gore, Culpeper Residency Administrator, VDOT, who was in the audience, to come forward and provide an estimate on the cost for a new traffic signal.

Mr. Donald B. Gore, VDOT Culpeper Residency Administrator, stated that the estimated cost to install a new signal was between \$125,000 and \$250,000. He said that while he was at the podium, he would address a question Mrs. Hansohn asked about the

ultimate plan. He explained that once the connection at Route 522 was constructed in that area, the traffic signal being installed initially would be removed and the median closed.

Mr. Egertson added that the applicant's main entrance would be signalized at the full cost by the applicant, and the \$50,000 contribution mentioned in the proffers would be towards the signals that would be installed on the northbound and southbound ramps of the interchange at Routes 15/29 and 3.

Mr. Nixon asked Mr. Gore whether the traffic study presented by the developer adequately preserved the integrity of the road and handled the traffic that would be generated by this development. Mr. Gore replied that the traffic analysis was reviewed by their traffic engineers and land development section, and after several revisions, the analysis met VDOT minimum requirements.

Mr. Coates inquired whether the \$50,000 proffered by the developer would go to VDOT. Mr. Egertson replied that money would go to VDOT.

Mr. Nixon said he assumed the developer was basing the 500,000-plus square feet of commercial development on market conditions. Mr. Vento stated that the land supported that square footage, but development would be done in phases and that number could change depending on market conditions.

Mrs. Hansohn asked whether the implementation of low impact development would affect the size of the buildings. Mr. Vento replied that it would not. Mrs. Hansohn asked whether there would be any green space. Mr. Vento stated that green space would be added to provide some porous surfaces when the landscaping was done.

Mr. Walker asked whether Angler still owned the triangular parcel on the other side of the creek. Mr. Vento stated they still owned that land and it would remain in the RA zone and provide buffering.

Mr. Aylor stated that the Library of Congress had islands of green space in their parking lot and asked if that could be included in the concept plan. Mr. Vento replied that they were constantly looking for techniques and Angler was one of the first developers to install filterable boxes that allowed phosphorous removal in the parking lot. He said were also working on a couple of projects where they had double-landscaped the island to provide more green space.

Mr. Coates called for voice vote and show of hands.

Ayes - Aylor, Chase, Coates, Nixon

Nays - Hansohn, Rosenberger, Walker

Motion carried 4 to 3.

Mr. Coates recessed the meeting at 11:30 p.m.

Mr. Coates called the meeting back to order at 11:40 p.m.

Mr. Coates noted that Mr. Chase would not be present for the rest of the meeting.

MASTER WATER AND SEWER PLAN. The Board of Supervisors will consider a proposed Master Water and Sewer Plan. The Plan is intended to replace the 1993 Master Water and Sewer Plan, as amended, in its entirety. The Plan would guide County development of water and sewer infrastructure in numerous locations throughout the County. The Plan is incorporated into the 2005 Culpeper County Comprehensive Plan by reference.

Mr. McLearen informed the Board that the Planning Commission had considered the plan and a public hearing was held. The Planning Commission found the proposed Master Water and Sewer Plan to be appropriate. He said the Planning Commission was recommending to the Board of Supervisors that the proposed Master and Sewer Plan be adopted.

Mr. Egertson stated that the proposed plan would replace, in its entirety, the existing Master Water and Sewer Plan adopted in 1993, and the new plan would be a companion document to the Comprehensive Plan as it was incorporated by reference. He said the Master Water and Sewer Plan was critical in order to satisfy Section 15.2-2232 of the *Code of Virginia* as the County moved forward with its various water and sewer facilities.

Mr. Egertson stated that the purpose of the proposed Master Plan was to support the Comprehensive Plan, to identify potential service areas, to provide a 50-year utility plan outlook, and to set forth all infrastructure requirements. He said the plan covered flow projections, watersheds, and water supply plan, and discussed service areas, including the Boston area, Brandy Station/Elkwood, Clevenger's Corner and the Town environs, as well as Stevensburg, and Mitchell. He added that the proposed plan supported the direction being pursued currently by the Board of Supervisors to ultimately provide a single regional wastewater treatment facility and to eliminate the need for multiple plants, except for Clevenger's Corner Village Center and the Boston and Mitchell areas that were too far removed and would be served by a separate facility.

Mr. Egertson added that there were several minor changes raised at the Planning

Commission public hearing, and Mr. Perry Cabot, Concerned Culpeper Citizens (CCC), and Mr. Paul Howard, had addressed those in a memorandum to the Board dated May 30. He asked for the Board's approval of the document, including the six minor changes made in the document.

Mr. Coates opened the public hearing and called for public comments.

Mr. Perry Cabot, CCC, stated he appreciated Mr. Howard's recognition for the changes, but he could not take credit for the change in the flow rate from 1.2 to 1, but would accept that change.

With no further comments, Mr. Coates closed the public hearing.

Mr. Nixon moved, seconded by Mr. Aylor, to approve the Master Water and Sewer Plan as presented with the six minor changes.

Mr. Coates called for voice vote.

Ayes - Aylor, Coates, Hansohn, Nixon, Rosenberger, Walker

Absent - Chase

Motion carried 6 to 0.

AMENDMENT TO ARTICLE 8E – AGRICULTURAL AND FORESTAL DISTRICTS OF THE ZONING ORDINANCE.

The Board of Supervisors will consider an amendment to Article 8E, Section 8E-2-4 of the Zoning Ordinance. The amendment would modify the definition of "Buffer, undisturbed" to clarify that such buffers permit maintenance and removal of nuisance vegetation.

Mr. McLearen informed the Board that the Planning Commission had considered the amendment and a public hearing was held. The Planning Commission found the proposed amendment to be appropriate. He said the Planning Commission was recommending to the Board of Supervisors that the proposed amendment be adopted.

Mr. Egertson stated that the proposed amendment was recommended directly by the Agricultural and Forestal Districts Advisory Committee and was endorsed by the Planning Commission. He said the request was to leave the current definition of "buffer" in the Code unchanged, but to modify the definition of "buffer, undisturbed" by adding the language that "Maintenance such as mowing grassy areas to prevent the establishment and spread of noxious weeds and grasses, and the removal and/or replacement of dead and diseased trees shall be permitted within an undisturbed buffer." He said it was the intent that an undisturbed buffer would remain free of structures and kept in vegetation, but some

maintenance should be permitted, and he recommended that the amendment be approved.

Mr. Coates opened the public hearing and called for public comments.

With no comments, Mr. Coates closed the public hearing.

Mr. Nixon moved, seconded by Mr. Aylor, to approve the ordinance amendment.

Mr. Coates called for voice vote.

Ayes - Aylor, Coates, Hansohn, Nixon, Rosenberger, Walker

Absent - Chase

Motion carried 6 to 0.

ADJOURNMENT

Mrs. Hansohn moved to adjourn at 11:48 p.m.

Peggy S. Crane, CMC
Deputy Clerk

John F. Coates, Chairman

ATTEST:

Frank T. Bossio
Clerk to the Board

Approved: July 3, 2007